IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7168 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

K M PATHAK

Versus

DIRECTOR OF MUNICIPALITIES

Appearance:

MR AR THACKER for Petitioners

MR L.R.PUJARI, AGP Respondent No. 1

MR JR NANAVATI for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 19/02/2000

ORAL JUDGEMENT

This petition is filed for quashing and setting aside the order passed by the Director of Municipalities at

Annexure `A' dated October 12, 1988 by which he held that respondent No.2 municipality has no power to appoint employees in Bal Mandir run by the Nagar Palika. When the petition was admitted and Rule was issued, following order was passed:

"Rule. Ad-interim relief in terms of para 98 (CC). However, it is clarified that the aforesaid order restraining the respondent Nagar Palika from terminating the services of the petitioners is passed with the express clarification that the respondent Nagar Palika is restrained from terminating service of petitioners pursuant to the order , Annexure A passed by the Director of Municipalities. It will be open to the respondent Municipality to pass order of termination of services of the petitioners on any other lawful ground and in lawful manner if the situation so demands. Direct service."

Para 9 (CC) reads as under :

(CC) Be pleased to restrain the respondent Nagar Palika from terminating the service of the petitioners in pursuance of the resolution if passed in the meeting held on 27th October 1988 during the pendency and final hearing of this Special Civil Application."

From the above discussion, it is clear that not only the municipality was expressly restrained from terminating services in accordance with law but from Annexure `C' to the petition, it clearly appears that conciliations failed and the matter was referred to the Industrial Tribunal on May 2, 1987. Petition is of 1988. More than ten years have passed.

In my opinion, therefore, petition deserves to be disposed of and is accordingly disposed of by directing the Industrial Tribunal concerned to decide the Reference, if it is not decided by this time, within a period of three months from today. If services of the petitioners are not terminated as per interim relief granted by this Court at the time of admission order, they will not be terminated till the Reference is decided, if it is not decided. Since I am not expressing

any opinion on merits, disposal of this petition will not come in the way of either the petitioners or the respondents. Petition is accordingly disposed of. Rule is discharged. No order as to costs.

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parekh